IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3614 OF 2007

The President/Secretary, Swantantraveer Sawarkar
Seva Samiti & Anr..... ..... Petitioners.
V/s
Mr.Laxman Babu Bhande & Anr..... ..... Respondent.

Mr.R.S.Deshpande, Adv. for the petitioners.

Mr.N.V.Bandiwadekar, Adv. For repondent No.1.

Mr.R.M.Patne, AGP for respondent No.2.

CORAM: A.P. DESHPANDE, J.
21.6.2007

PC:

The petitioners administer Maharashtra Military School and the respondent No.1 was appointed in the said school as Sports Trainer. The petitioners claim to have proceeded against respondent No.1 in departmental inquiry on serious charges of misconduct. According to the petitioners respondent No.1 did not participate in the inquiry and thus ex-parte inquiry was held and acting on a report of the Inquiry Committee the petitioners proceeded to terminate the services of respondent No.1. Aggrieved by the said termination respondent No.1 filed an appeal before the Tribunal. Respondent No.1 contended before the Tribunal that at no point of time he was served with any communication in relation to departmental inquiry. Respondent No.1 had categorically claimed before the Tribunal that he was neither served with statement of allegations nor

charge sheet or any other document in relation to said inquiry. The present petitioners tried to point out that on the Inquiry Committee the respondent No.1 did not nominate his representative and hence Inquiry Committee comprising of Management' srepresentative and one Ganpt Jagdale was constituted who made the inquiry. Under Rule 36 the Inquiry Committee need to comprise of three persons i.e. Management' srepresentative, employee' snominee and State or national awardee teacher. It has come on record of the Tribunal that Ganpat Jagdale was neither a national or State awardee teacher, nor had he ever participated in the proceedings. He was only Zilla Parishad awardee, hence not eligible to be nominated by the Management on the Inquiry Committee. On top of it, the said Zilla Parishad awardee filed an affidavit before the Tribunal and stated therein that he had never participated in the inquiry proceedings but was invited for the first time in the school on 16.3.2007, whereas the respondent No.1 stood terminated by an order dated 3.3.2007. The School Tribunal has rightly held that the Management has just tried to make a show of inquiry by producing UPC receipts when the statute requires the communications to be issued by registered post acknowledgment due. The Tribunal has concluded in the first place that the inquiry stood vitiated as the constitution of the inquiry committee is illegal and in the second place it has held that the inquiry was not just and fair. The inquiry has also been held to be in breach of principles of natural justice. Perused the judgment and order passed by the School Tribunal. The School Tribunal has rightly decided the issue before it and allowed the appeal. No

interference is called for with the judgment and order passed by the School Tribunal. Hence writ petition stands summarily dismissed.

2. At this stage learned counsel for the petitioner submits that as the appeal has been allowed on technical ground and on the ground that the petitioner did not comply with the principles of natural justice the petitioner be permitted to initiate a fresh inquiry touching the charges which form the subject matter of the appeal and this petition. Learned counsel in all fairness on instructions from Mr.Devendra Gandre, Executive Officer of the petitioner, who is present in the Court, undertakes to comply with the judgment and order passed by the Tribunal within a period of 15 days from today. Undertaking accepted. Permission to hold a fresh inquiry in accordance with law is granted.

21.6.07.